

# STATE OF LOUISIANA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### IN THE MATTER OF:

**GULF LIQUIDS NEW RIVER  
PROJECT LLC  
MULTI-PARISH  
AI NOS. 83718, 100651, 88152**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.**

*	<b>Settlement Tracking No.</b>
*	<b>SA-ARMP-05-0038</b>
*	
*	<b>Enforcement Tracking Nos.</b>
*	<b>AE-CN-02-0279</b>
*	<b>RMPE-CN-04-0023</b>
*	
*	<b>Docket No. 2005-4162-EQ</b>
*	
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## SETTLEMENT

The following Settlement is hereby agreed to between Gulf Liquids New River Project LLC ("Respondent") and the Louisiana Department of Environmental Quality ("LDEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

### I.

The Respondent owned and/or operated the following facilities in Louisiana at all relevant times: (1) the "Geismar facility," (Agency Interest Number 83718) located at 10334 Louisiana Highway 75 in Geismar, Ascension Parish; (2) the "Chalmette facility," (Agency Interest Number 88152) located at the Exxon-Mobil Chalmette Refinery, Gate 29, 1701 Paris Road in Chalmette, St. Bernard Parish; and (3) the "Sorrento facility," (Agency Interest Number 100651) located

adjacent to the Motiva Convent Refinery, 3401 Louisiana Highway 70 in Sorrento, Ascension Parish. These facilities are authorized to operate pursuant to various permits issued by the Department.

## II.

The Respondent voluntarily conducted audits at the three facilities referenced in Paragraph I in 2004. The Respondent subsequently met with the Department on September 7, 2004, to discuss the operations and procedures conducted at the above-referenced facilities, and provided written correspondence to the Department identifying the audit results in a meeting on November 8, 2004, and in correspondence, dated December 2, 2004. At these meetings, the Respondent and the Department also discussed the resolution of several pending LDEQ enforcement matters that are discussed below and are made a part of this Settlement.

## III.

On March 31, 2003, the Department issued a Consolidated Compliance Order & Notice of Potential Penalty (CONOPP), Enforcement Tracking No. AE-CN-02-0279, regarding the Respondent's Geismar facility (Agency Interest Number 83718) which was based upon the following findings of fact. The following statements are included for settlement purposes only and do not constitute admissions by Respondent:

- A. The Department received the Respondent's Semiannual Monitoring Report for the period encompassing April 27 through June 30, 2001, on October 3, 2001. The Department contends this is a violation of General Condition K of Air Permit Number 0180-00086-V1, which requires that the semiannual report for the period encompassing January through June be submitted to the Department no later than September 30 of the same year. The Department also contends this is a violation of LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.

- B. The Department received the Respondent's Semiannual Monitoring Report for the period encompassing July 1 through December 31, 2001, on April 8, 2002. The Department contends this is a violation of General Condition K of Air Permit Number 0180-00086-V2, which requires that the semiannual report for the period encompassing July through December be submitted to the Department no later than March 31 of the following year. The Department contends this is also a violation of LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- C. The Department received the Respondent's Annual Compliance Certification for the period encompassing April 27 through December 31, 2001, on April 3, 2002. The Department contends this is a violation of General Condition M of Air Permit Number 0180-00086-V2, which requires that the compliance certification for January through December be submitted to the Department no later than March 31 of the following year. This is also a violation of LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act.
- D. The Respondent reportedly experienced a release of 298 pounds of natural gasoline on October 8, 2001, at approximately 12:55 p.m. This release was reported to the Department in a letter dated October 11, 2001. According to the report, the release occurred when the natural gasoline storage tank was overfilled, causing sporadic lifting of the relief valve. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of LAC 33:III.501.C.4 and Sections 2057(A)(1) and (A)(2) of the Act.
- E. A stack test was performed on the Solar Mass Turbine No. 1 on October 9, 2001. The results of the stack test indicated that the NOx emissions from this source were at a rate of 17.6 pounds per hour, which is 2.4 pounds per hour above the permitted limit of 15.2 pounds per hour. The Respondent reported this deviation to the Department in a letter dated October 10, 2001. The Respondent provided the Department with additional information in a letter dated March 13, 2002. According to the Respondent's letters, the deviation ended on December 28, 2001, when the turbine was reinstalled after being repaired by the manufacturer. The Respondent reported a total of 3,475.2 pounds of NOx emissions above permitted limits during the

period of October 10 through December 28, 2001. Each day of noncompliance is a violation of Air Permit Number 0180-00086-V2, LAC 33:111.501.C.4, and Sections 2057(A)(1) and (A)(2) of the Act.”

#### IV.

On December 6, 2004, the Department issued a CONOPP, Enforcement Tracking No. RMPE-CN-04-0023, regarding the Respondent’s Geismar facility which was based upon the following findings of fact:

- A. The Department contends that Respondent failed to have modified stationary sources meet the requirements contained in management of change, in violation of 40 CFR 68.77(b)(3) and La. R.S. 30:2057(A)(2). Specifically, Department contends the initial PHA recommendation items 4-3, 22-1, 27-1, and 7 could not be documented prior to startup of the Fractionation Unit.
- B. The Department contends that Respondent failed to confirm that the operating procedures were in place and adequate in the pre-startup safety review, in violation of 40 CFR 68.77(b)(2) and La. R.S. 30:2057(A)(2). Specifically, the Department contends that Pre-Startup Safety Review (PSSR) for MOC 2004-G-003 failed to confirm that the operating procedures were in place and adequate.
- C. The Department contends that Respondent failed to confirm that training of each employee involved in operating a process had been completed, in violation of 40 CFR 68.77(b)(4) and La. R.S. 30:2057(A)(2). Specifically, Department contends that the PSSRs for MOCs 2004-G-003 and 005 were not completed.
- D. The Department contends that Respondent failed to develop a management system to oversee the implementation of the risk management program elements, in violation of 40 CFR 68.15 and La. R.S. 30:2057(A)(2). This area of concern was addressed at the time of inspection.
- E. The Department contends that Respondent failed to maintain the required records for the offsite consequence analysis, in violation of 40 CFR 68.39 and La. R.S. 30:2057(A)(2).
- F. The Department contends that Respondent failed to establish written procedures to maintain the on-going integrity of storage tanks, piping

systems, rotating equipment, emergency shutdowns and controls, and that it failed to implement mechanical integrity procedures for pressure vessels and pressure relief devices, in violation of 40 CFR 68.73(b) and La. R.S. 30:2057(A)(2).

- G. The Department contends that Respondent failed to ensure that frequency of inspections and tests on tanks, vessels, and piping is consistent with applicable good engineering practices, manufacturers recommendations, and prior operating experience, in violation of 40 CFR 68.73(d)(3) and La. R.S. 30:2057(A)(2).
- H. The Department contends that Respondent failed to establish and implement management of change procedures that assure the necessary time period for the change was considered prior to the change, in violation of 40 CFR 68.75(b)(4) and La. R.S. 30:2057(A)(2). Specifically, the time period for change was not addressed in the Management of Change Procedures (Gulf Liquids New River Project L.L.C. Standard Operating Procedures Section 3, Item J) or the Management of Change Form.
- I. The Department contends that Respondent failed to train employees prior to start-up of the modified part of the process covered in the management of change form, MOC 2004-G-005, in violation of 40 CFR 68.75(c) and La. R.S. 30:2057(A)(2). Specifically, the Department contends the PSSR indicated that employee training was required prior to start-up following the process change. Department contends that, at the time of inspection, the facility could not present documentation that the training had taken place, and the training had not been dated as completed on the PSSR.
- J. The Department contends that Respondent failed to update process safety information (PSI) that changed due to a change in the process, in violation of 40 CFR 68.75(d) and La. R.S. 30:2057(A)(2). Specifically, Department contends that, at the time of inspection, the official P & ID drawings had not redlined to reflect the changes as stated in MOC 2004-G-005.
- K. The Department contends that Respondent failed to update operating procedures that changed due to a modification of the process, in violation of 40 CFR 68.75(e) and La. R.S. 30:2057(A)(2). Specifically, Department contends that the PSSR indicated that the change had affected operating procedures and/or practices, but that a completion date for updating the operating procedures could not be provided.

- L. The Department contends that Respondent failed to provide documentation that a PSSR was conducted for the Fractionation Unit prior to initial start-up in 2001 and also could not provide a completed PSSR for nine of the eleven MOCs conducted in 2004, in violation of 40 CFR 68.77(a) and La. R.S. 30:2057(A)(2).

V.

While conducting the self audit of the Geismar, Chalmette, and Sorrento facilities referred to in Paragraph II above, the Respondent discovered additional compliance issues and voluntarily disclosed such information in written correspondences submitted to the Department on November 8, 2004, and December 2, 2004.

VI.

With respect to the Geismar facility, the following violations were revealed by the Respondent in written correspondence submitted on November 8, 2004, and December 2, 2004, and/or allegedly during file reviews conducted by the Department, and by an inspection conducted by the Department on October 21, 2002:

- A. The Respondent submitted the facility's 2002 emission inventory report, due by March 31, 2003, on or about April 1, 2003. This late submittal is a violation of Specific Condition Number 2 for Gas Turbine Engines of Title V Permit Number 0180-00086-V2, LAC 33:III.501.C.4, LAC 33:III.919.D, and Section 2057(A)(2) of the Act.
- B. The Respondent is required to monitor the nitrogen content of fuel on a daily basis to demonstrate compliance with the nitrogen oxide (NO<sub>x</sub>) emission standard set forth in 40 CFR 60.334. The Respondent reportedly conducted fuel nitrogen analysis as a continuous flow-proportional sample on a monthly basis for 40 months during the period encompassing the 2001 through the 2005 calendar years. This analysis and the gas-delivery contract requirements reportedly indicated compliance with the underlying NSPS NO<sub>x</sub> standard. Each of the Respondent's failures to daily monitor the nitrogen content of the facility's fuel

prior to December 5, 2001, is a violation of Specific Condition Number 1 for Gas Turbine Engines of Title V Permit Number 0180-00086-V1, LAC 33:III.501.C.4, 40 CFR 60.334, which language has been adapted as a Louisiana Regulation in LAC 33:III.3003, and Section 2057(A)(2) of the Act. Each of the Respondent's failures to daily monitor the nitrogen content of the facility's fuel on or after December 5, 2001 is a violation of Specific Condition Number 1 for Gas Turbine Engines of Title V Permit Number 0180-00086-V2, LAC 33:III.501.C.4, 40 CFR 60.334, which language has been adapted as a Louisiana Regulation in LAC 33:III.3003, and Section 2057(A)(2) of the Act.

- C. The Respondent is required to monitor the sulfur content of fuel on a daily basis to demonstrate compliance with the sulfur dioxide (SO<sub>2</sub>) emission standard set forth in 40 CFR 60.334. The Respondent reportedly failed to document the daily fuel sulfur analysis for 20 days in 2004, for 56 days in 2003, for 176 days in 2002, and for 84 days in 2001. Data collected by the Respondent reportedly indicated that it complied with the underlying NSPS SO<sub>2</sub> standard. Each of the Respondent's failures to daily monitor the sulfur content of the facility's fuel prior to December 5, 2001, is a violation of Specific Condition Number 1 for Gas Turbine Engines of Title V Permit Number 0180-00086-V1, LAC 33:III.501.C.4, 40 CFR 60.334, which language has been adapted as a Louisiana Regulation in LAC 33:III.3003, and Section 2057(A)(2) of the Act. Each of the Respondent's failures to daily monitor the sulfur content of the facility's fuel on or after December 5, 2001, is a violation of Specific Condition Number 1 for Gas Turbine Engines of Title V Permit Number 0180-00086-V2, LAC 33:III.501.C.4, 40 CFR 60.334, which language has been adapted as a Louisiana Regulation in LAC 33:III.3003, and Section 2057(A)(2) of the Act.
- D. The semiannual LDAR program report, as per 40 CFR 60.636, for the period encompassing July through December 2001, due by January 31, 2002, was reportedly submitted to the Department on or about August 29, 2002. The semiannual LDAR program report for the period encompassing July through December 2002, due by January 31, 2003, was dated July 14, 2003, and received by the Department on July 16, 2003. Each late submittal is a violation of Specific Condition Number 1 for Fugitive Emissions of Title V Permit Number 0180-00086-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

- E. The Respondent's Title V Semiannual Monitoring Report for the period encompassing January through June 2002, due by September 30, 2002, was postmarked on March 31, 2003. This late submittal is a violation of 40 CFR Part 70 General Condition K of Title V Permit Number 0180-00086-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- F. The Respondent's Title V Annual Compliance Certification for the 2002 calendar year did not reference the release of 5,162 pounds of propylene on September 22, 2002, or the release of 10,100 pounds of propylene on September 11, 2002. The Respondent was required to include this information on its compliance certification statement pursuant to Part 70 General Condition M of its air permit. Each failure to include previously reported deviations in the facility's annual compliance certification is a violation of 40 CFR Part 70 General Condition M of Title V Permit Number 0180-00086-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- G. The Respondent failed to create a written Best Practical Housekeeping Plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound (VOC) emissions from the Geismar facility as required by LAC 33:III.2113. The Respondent reportedly utilized best management techniques to reduce VOC emissions, and reportedly prepared a written Best Practical Housekeeping Plan in September 2004. The Respondent's failure to develop this plan prior its reported development in September 2004 is a violation of Specific Condition Number 2 for Fugitive Emissions of Title V Permit Number 0180-00086-V2, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- H. Leak detection and repair (LDAR) monitoring and repair program data were collected and compiled by the Respondent's contractor personnel for the Geismar facility. However, three of the summary reports generated by the contractor reportedly lacked a specific listing of leaking/delay repair components as required by LAC 33:III.2122. Records tracking related maintenance activities for leaking components required by 40 CFR 60.487 and LAC 33:III.2122 were also incomplete. Each of the Respondent's failures to include all information in the reports required by LAC 33:III.2122.G and 40 CFR 60.487 by the due dates is a violation of Specific Condition Number 2 for Fugitive Emissions of Title V



Permit Number 0180-00086-V2, LAC 33:III.501.C.4, 40 CFR 60.487, which language has been adopted as a Louisiana Regulation in LAC 33:III.3003, and Section 2057(A)(2) of the Act.

- I. The Department contends that Respondent failed to establish a Contractor Safety Program at the Geismar facility, in violation of 40 CFR 68.87 and La. R.S. 30:2057(A)(2). Appropriate pre-hire safety information was received for construction contractors and for current contractors. The Respondent has created a contractor safety database which includes an approved contractor list.
- J. The Geismar facility's LPDES permit (No. LA0114481) requires monthly sampling and reporting for Total Dissolved Solids (TDS) and Total Suspended Solids (TSS) and quarterly sampling for Total Organic Carbon (TOC), Chemical Oxygen Demand (COD), Oil and Grease, Chlorides, Sulfates and Total Recoverable Iron for Outfall 001. The Respondent reported the following effluent exceedances on its discharge monitoring reports (DMR) submitted to the Department as follows:

Monitoring Period	Outfall	Parameter	Permit Limitation	Sample Value
4/1/01-6/30/01	001	TDS (Daily Max.)	500 mg/L (Daily Max.)	530 mg/L
3/1/02-3/31/02	001	TSS (monthly avg.) TSS (Daily Max.)	30 mg/L (monthly avg.) 45 mg/L (Daily Max.)	129 mg/L 129 mg/L
5/2002	001	TSS (monthly avg.) TSS (Daily Max.)	30 mg/L (monthly avg.) 45 mg/L (Daily Max.)	66 mg/L 66 mg/L
5/2002	001	Chlorides (Daily Max.)	250 mg/L (Daily Max.)	891 mg/L
6/2002	001	Chlorides (Daily Max.)	250 mg/L (Daily Max.)	319 mg/L
7/2002	001	TDS (Daily Max.)	500 mg/L (Daily Max.)	652 mg/L
8/2002	001	Sulfates (Daily Max.)	75 mg/L (Daily Max.)	410 mg/L
9/2002	001	TDS (Daily Max.)	500 mg/L (Daily Max.)	620 mg/L
10/2003	001	COD (monthly avg.) COD (Daily Max)	200 mg/L (monthly avg.) 300 mg/L (Daily Max.)	353 mg/l 353 mg/L
10/2003	001	TOC (Daily Max)	50 mg/L (Daily Max.)	103 mg/L

Each effluent violation constitutes a violation of LPDES Permit LA0114481 (Part I, Page 2 and Part III, Section A.2), La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

- K. The Respondent submitted incomplete and/or inaccurate DMRs. Specifically, TDS and TSS laboratory data for November and December of 2003 were transposed on the December and November DMRs, respectively. The failure to submit complete and accurate DMRs is in violation of LPDES Permit LA0114481 (Part III, Section A.2 and D.4), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.a. The Respondent corrected this by submitting revised DMRs for November and December of 2003 on or about November 4, 2004.
- L. The Respondent was not following approved test methods. Specifically, the October 21, 2002, inspection revealed that holding times were exceeded for the TDS parameter in April 2002, May 2002, and June 2002. Holding times were also exceeded for the TSS parameter in April 2002. The failure to follow approved test methods constitutes a violation of LPDES Permit LA0114481 (Part II, Section F, Part III, Sections A.2 and C.5.a), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.J.4, and LAC 33:IX.4901.
- M. The Department contends that Respondent failed to sample Outfall 001 at its Geismar facility as required by LPDES Permit LA0114481. An inspection conducted by the Department on or about October 21, 2002, allegedly revealed that Respondent failed to conduct monthly sampling at Outfall 001 in January 2002 for the pH, TSS, and TDS parameters. On or about November 8, 2004, the Respondent self-disclosed sampling deviations as follows: 1) the Respondent failed to conduct monthly sampling at Outfall 001 for the TSS and TDS parameters in April, May, July, August, October, November and December of 2001; 2) the Respondent failed to conduct quarterly sampling at Outfall 001 for the 4<sup>th</sup> quarter of 2001 for the TOC, COD, Chlorides, Sulfates, Total Recoverable Iron, and Oil and Grease parameters; 3) the Respondent failed to sample Outfall 001 for the TDS and TSS parameter in August 2002; and 4) the Respondent failed to sample Outfall 001 for the TOC parameter for the 1<sup>st</sup> quarter of 2003. Each failure to sample the effluent as required is in violation of LPDES Permit LA0114481 (Part I, Page 2, and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.
- N. The Respondent submitted DMRs for Outfall 002 for July through December of 2003 with no signature. The failure to submit signed

and certified DMRs is in violation of LPDES Permit LA0114481 (Part II, Section K and Part III, Sections A.2 and D.10), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, LAC 33:IX.2503.B, and LAC 33:IX.2355.K.1. The Respondent corrected this by submitting revised DMRs for July through December of 2003 on or about November 4, 2004.

- O. Annual visual inspections were not conducted in 2002 and 2003 at the Geismar facility, as required by the facility's Stormwater Pollution Prevention Plan (SWPPP) and LPDES permit. Each failure to implement an adequate SWPPP is in violation of LPDES Permit LA0114481 (Part II, Section H.4.a, and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.
- P. The Spill Prevention Control (SPC) plan and Part II.5.g of the LPDES permit for the Geismar facility requires the inspection and maintenance of check valves, tanks, drains or other potential sources of pollutant releases on a regular basis. Weekly SPC inspections were not conducted for the following periods: 2004 – 14 weeks, 2003 – 36 weeks, 2002 – 32 weeks, and 2001 – 36 weeks. Each failure to follow the facility's SPC plan is in violation of LPDES Permit LA0114481 (Part II, Section H.5.g, and Part III, Section A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.907.J.
- Q. The Geismar facility is required by Part III.5.b of its LPDES permit to maintain calibration records for all monitoring and analytical instruments at intervals frequent enough to ensure the accuracy of measurements. From the start of operations in April 2001 through September 2002, the pH meter was calibrated in accordance with manufacturer's specifications, but the calibrations were not documented. Each failure to properly maintain records is in violation of LPDES Permit LA0114481 (Part III, Sections A.2 and C.3), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.J.2.
- R. The Respondent is required to maintain monitoring records, including analysis results, at the Geismar facility pursuant to LAC 33:IX.2701.J.3. Sample pH values were not documented for the following dates for Outfall 001: February 28, 2003, March 28, 2003, October 13, 2003, November 28, 2003, July 2, 2002, August 23, 2002, September 23, 2002, and October 31, 2002. Each failure to properly maintain records is in violation of LPDES

Permit LA0114481 (Part III, Sections A.2 and C.3), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.J.2.

- S. The Respondent is required by Part II.K of its LPDES permit to submit quarterly DMRs on or before April 28 (first quarter), July 28 (second quarter), October 28 (third quarter), and January 28 (fourth quarter). The DMR for Outfall 001 was due on January 28, 2004, but was submitted on January 29, 2004. The Outfall 002 DMR was due on October 28, 2001, but was submitted on October 24, 2002. The Outfall 002 January 2002 DMR was revised because the original submittal incorrectly stated that no samples were taken. The contractor had collected samples during the reporting period. The Respondent's untimely submittal of DMRs is in violation of LPDES Permit LA0114481 (Part II, Section K, and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.
- T. The Department contends that Respondent failed to implement a Universal Waste Program at the Geismar facility covering labeling, storage, accumulation time and disposal, in violation of LAC 33:V.3823 and 3825.
- U. The Department contends that Respondent failed to include hospital contacts and arrangements with police and hospitals in its facility contingency plans for the Geismar facility, in violation of LAC 33:V.1513 and 1117.
- V. The Department contends that Respondent failed to provide written procedures at the Geismar facility to ensure that waste volume remains in the temporary storage unit for no more than 90 days, in violation of LAC 33:V.1109(E)(iv)(a).
- W. The Department contends that, prior to 2003, Respondent failed to develop written procedures to maintain the ongoing integrity of storage tanks, pressure vessels, pressure relief devices, piping systems, rotating equipment, emergency shutdowns, and controls at the Geismar facility, in violation of 40 CFR 68.73 and La. R.S. 30:2057(A)(2). Regardless of the accuracy of the Department's allegations, the facility has reportedly developed preventative maintenance practices for rotating equipment and electrical equipment, including instrumentation and controls.

- X. The Department contends that Respondent failed to develop a management system to oversee the implementation of the Risk Management Program elements at the Geismar facility in violation of 40 CFR 68.15 and La. R.S. 30:2057(A)(2). The Respondent has reportedly developed the necessary system.
- Y. The Department contends that Respondent failed to maintain records of offsite consequence analysis at the Geismar facility in violation of 40 CFR 68.39 and La. R.S. 30:2057(A)(2). The offsite consequence analysis was completed and timely submitted for the Geismar facility. The supporting documentation, however, was allegedly misplaced.
- Z. The Department contends that Respondent failed to establish and implement all elements required by the Management of Change (MOC) procedures for the Geismar facility in violation of 40 CFR 68.75 and La. R.S. 30:2057(A)(2). The Respondent developed and implemented an MOC program, but the Department contends, however, that some elements of the program failed to meet certain requirements related to training on the change as well as updating, if needed, the Process Safety Information (PSI), operating procedures, Process Hazard Analysis (PHA), and Pre-Startup Safety Review (PSSR), along with documentation of the time of completion of the MOC tasks. The Respondent has reportedly updated and implemented its MOC procedures at the Geismar facility no later than October 2004.
- AA. The Respondent conducted several PHAs for the Geismar facility since 2001. The Department contends that the facility, however, failed to document the resolution of all PHA recommendations in violation of 40 CFR 68.67 and La. R.S. 30:2057(A)(2). The Respondent has reviewed all PHAs prepared for the Geismar facility, and has resolved the recommendations set forth therein or included them in the most recent PHA prepared for the site.
- BB. The Respondent certified that all operating procedures for the Geismar facility were in place, but the Department contends that Respondent misplaced such records for calendar year 2003 in violation of 40 CFR 68.69(c) and La. R.S. 30:2057(A)(2). The Respondent has reviewed its operating procedures and timely completed the certification for 2004.
- CC. The Department contends that Respondent failed to maintain documentation that a PSSR was conducted for the Fractionation

Unit at the Geismar facility prior to initial startup in 2001 in violation of 40 CFR 68.77 and La. R.S. 30:2057(A)(2). The Department also contends that the facility failed to maintain completed PSSRs for nine of the eleven PSSRs conducted in 2004. The Respondent reportedly updated and implemented its MOC procedures at the Geismar facility no later than October 2004.

- DD. The Department contends that Respondent failed to document certain elements of the PHA for the Geismar facility in violation of 40 CFR 68.75 and 68.77 and La. R.S. 30:2057(A)(2). The Department also contends that the facility failed to complete the PSSRs for three MOCs in 2004. The Respondent reportedly updated and implemented its MOC procedures at the Geismar facility no later than October 2004.
- EE. The Department contends that Respondent failed to confirm that the operating procedures were in place and adequate in PSSR for MOC 2004-G-003 for the Geismar facility in violation of 40 CFR 68.77 and La. R.S. 30:2057(A)(2). The Respondent has reviewed its PHA for the Geismar facility and also confirmed that there were no concerns requiring modification of operating procedures in 2004.
- FF. The Department contends that Respondent failed to document that the training of employees had been conducted for the projects referenced in MOCs 204-G-003 and 005 in violation of 40 CFR 68.77 and La. R.S. 30:2057(A)(2). The Respondent reportedly updated and implemented its MOC procedures at the Geismar facility no later than October 2004.
- GG. The Department contends that Respondent failed to document the training of each employee involved in the operating process in violation of 40 CFR 68.71 and La. R.S. 30:2057(A)(2). The Geismar facility has conducted refresher training of employees on all applicable operating procedures.
- HH. The Department contends that Respondent failed to establish a Contractor Safety Program at the Geismar facility in violation of 40 CFR 68.87 and La. R.S. 30:2057(A)(2). Appropriate pre-hire safety information was received for construction contractors and for current contractors. The Respondent has created a contractor safety database which includes an approved contractor list.

## VII.

With respect to the Chalmette facility (Agency Interest Number 88152), the following alleged deviations or excursions were noted in the voluntary disclosures made by the Respondent pursuant to the self-audit and the written correspondence submitted on November 8 and December 2, 2004:

- A. The semiannual LDAR report, required by 40 CFR 60.487 pursuant to 40 CFR 60.636, for the period encompassing October through December 2001, due by January 31, 2002, was allegedly submitted to the Department on or about August 21, 2003. The report for the period encompassing January through June 2002, due by July 31, 2002, and the report for the period encompassing July through December 2002, due by January 31, 2003, were also submitted to the Department on or about August 21, 2003. The Department contends that each of the Respondent's alleged failures to submit these reports as specified in 40 CFR 60.487 is a violation of the Specific Condition of Air Permit Number 2500-00055-00, LAC 33:III.501.C.4, 40 CFR 60.487, which language has been adapted as a Louisiana Regulation in LAC 33:III.3003, and Section 2057(A)(2) of the Act.
- B. LDAR monitoring and repair program data were collected and compiled by the Respondent's contractor personnel. However, the summary reports generated by the contractor lacked a specific listing of leaking/delay repair components as required by LAC 33:III.2121. The Department further alleges that records tracking related maintenance activities for leaking components as required by 40 CFR 60.487 and LAC 33:III.2121 were also incomplete. The Department contends that each of the Respondent's alleged failures to include all information in the reports required by LAC 33:III.2121 and 40 CFR 60.487 by the due dates is a violation of 40 CFR 60.487, which language has been adopted as a Louisiana Regulation in LAC 33:III.3003, LAC 33:III.2121.F, and Section 2057(A)(2) of the Act.
- C. The Respondent reportedly emitted 8.63 tons per year of unpermitted fugitive emissions at the facility, 2.4 tons of unpermitted VOCs per year from startup, shutdown, and maintenance of compressors at the facility, and less than 5 tons of unpermitted VOCs per year from potentially insignificant

activities including startup/shutdown of line, filter, and vessel pressurizing/depressurizing starting in April 2001. The Department contends that each of the Respondent's alleged failures to submit a permit application and receive approval from the permitting authority prior to the construction, modification, and/or operation of a facility, which ultimately may result in an initiation or increase in emission of air contaminants, is a violation of LAC 33:III.501.C.1, LAC 33:III.501.C.2, and Sections 2057(A)(1) and (A)(2) of the Act. The Respondent submitted a permit modification application to address these unpermitted emissions that was received by the Department on November 30, 2004. In response, the Department issued Air Permit Number 2500-00055-01 to the facility on May 16, 2005.

- D. The Respondent reportedly failed to quarterly report unpermitted VOC emissions from unreconciled fugitive emission points and startup/shutdown and maintenance operations at the facility starting in April 2001, as required by General Condition XI of the facility's permit. The Department contends that each of the Respondent's alleged failures to submit a written report if for any reason the permittee did not comply with or would not be able to comply with the emission limits specified in Air Permit Number 2500-00055-00, is a violation of General Condition XI of Air Permit Number 2500-00055-00, LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.
- E. The Department contends that Respondent failed to maintain a written Best Practical Housekeeping Plan for housekeeping and maintenance that places emphasis on the prevention or reduction of VOC emissions from the Chalmette facility as required by LAC 33:III.2113. The Chalmette facility reportedly used best management techniques to reduce VOC emissions. The Department contends that Respondent's alleged failure to develop this plan is a violation of LAC 33:III.2113.A.4 and Section 2057(A)(2) of the Act. A Best Practical Housekeeping Plan has reportedly been prepared for the Chalmette facility since the internal audit was performed.
- F. The Department contends that, prior to 2003, Respondent failed to develop written procedures to maintain the ongoing integrity of storage tanks, pressure vessels, pressure relief devices, piping systems, rotating equipment, emergency shutdowns, and controls at the Chalmette facility, in violation of 40 CFR 68.73(b) and La. R.S. 30:2057(A)(2). The facility has developed preventative



maintenance practices for rotating equipment and electrical equipment, including instrumentation and controls.

- G. The Department contends that Respondent failed to maintain records of offsite consequence analysis at the Chalmette facility in violation of 40 CFR 68.39 and La. R.S. 30:2057(A)(2). The offsite consequence analysis was completed and timely submitted for the Chalmette facility. The supporting documentation, however, was allegedly misplaced.
- H. The Department contends that Respondent failed to develop a management system to oversee the implementation of the Risk Management Program elements at the Chalmette facility in violation of 40 CFR 68.15 and La. R.S. 30:2057(A)(2). The Respondent reportedly has developed the necessary system.
- I. The Department contends that Respondent failed to establish and implement all elements required by the Management of Change (MOC) procedures for the Chalmette facility in violation of 40 CFR 68.75(b)(4) and La. R.S. 30:2057(A)(2). The Respondent developed and implemented an MOC program, but the Department contends that some elements of the program failed to meet certain requirements related to training on the change as well as updating, if needed, the Process Safety Information (PSI), operating procedures, Process Hazard Analysis (PHA) and Pre-Startup Safety Review (PSSR), along with documentation of the time of completion of the MOC tasks.
- J. The Department contends that Respondent failed to evaluate and update the PHA for the Chalmette facility, as needed, prior to facility startup of modified sources in violation of 40 CFR 68.75 and 68.67(a) and La. R.S. 30:2057(A)(2). The Department contends that the facility also failed to consistently evaluate and document whether a PHA re-evaluation was needed for MOC matters. The Respondent has reviewed the PHAs prepared for the Chalmette facility, and has resolved the recommendations set forth therein or included them in the most recent PHA prepared for the site.
- K. The Department contends that Respondent failed to consistently satisfy all PSSR requirements and resolve all issues before initial startup in violation of 40 CFR 68.77(a) and La. R.S. 30:2057(A)(2). The Department contends that the initial PSSR for the Chalmette facility was not properly documented. The

Department further contends that Respondent has some documentation of the initial PSSR, but that the review was not signed and certified as complete.

- L. The Department contends that Respondent failed to inform and coordinate with the local fire department in violation of 40 CFR 68.90(b)(2) and La. R.S. 30:2057(A)(2). The Respondent provided the facility RMP and emergency response information to the State and parish authorities as required by 40 CFR Part 68, Subpart E.
- M. The Department contends that Respondent failed to certify that all operating procedures for the Chalmette facility were in place, current and accurate in violation of 40 CFR 68.69(c) and La. R.S. 30:2057(A)(2).
- N. The Department contends that Respondent failed to train each employee involved in the operating process in violation of 40 CFR 68.71 and La. R.S. 30:2057(A)(2). In particular, the Department contends that documentation at the Chalmette facility was not up to date with regard to the training and refresher training of employees on the operating procedures.
- O. Prior to the startup of the Chalmette facility in 2001, used equipment was examined by the Respondent and found to meet the applicable codes for the intended service. However, the Department contends that some of the documentation of this analysis for one vessel was misplaced. The Department contends that the Chalmette facility cannot document verification that certain used equipment meets applicable codes in violation of 40 CFR 68.65 and La. R.S. 30:2057(A)(2).
- P. The Department contends that Respondent failed to establish a Contractor Safety Program at the Chalmette facility in violation of 40 CFR 68.87(b) and La. R.S. 30:2057(A)(2). Appropriate pre-hire safety information was received for construction contractors and for current contractors. The Respondent has created a contractor safety database which includes an approved contractor list.
- Q. The Respondent failed to conduct certain weekly inspections at the Chalmette facility as required by the facility SPC plan and LAC 33:IX.901. In particular, documentation was not available for three weeks in 2004 and five weeks in 2003. In addition, documentation for weekly inspections conducted in 2001 and 2002

had been lost or misplaced. The Respondent's failure to maintain records of weekly inspections that are required as part of the facility's SPC plan is in violation of La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.907.J, LAC 33:IX.2701.A, and LAC 33:IX.2701.J.2.

- R. The Respondent failed to maintain current information for its SWPPP for the Chalmette facility as required by Permit LAR050000, including an updated plot plan and facility management information. The Respondent's failure to update and/or revise its SWPPP in January 2003 is in violation of LPDES Permit LAR05N036 Section 4.2, La. R. S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.
- S. The Department contends that Respondent failed to meet the manifest requirements in violation of 40 CFR Part 262. In particular, Manifest No. 55445, dated July 10, 2002, allegedly failed to include a generator's signature for certification.
- T. The Department contends that Respondent failed to implement a Universal Waste Program at the Chalmette facility covering the labeling, storage, accumulation time and disposal in violation of LAC 33:V.3823 and 3825.
- U. The 2002 hazardous waste annual report for the Chalmette facility, due on March 1, 2003, was submitted by the Respondent on March 19, 2003. The Department contends that this allegedly late submittal is a violation of LAC 33:V.1111.
- V. The Department contends that Respondent failed to develop a specific hazardous waste contingency plan for the Chalmette facility in violation of LAC 33:V.1513 and 1117.
- W. The Department contends that drums containing undrained used oil filters were observed unlabeled in the hazardous waste storage area at the Chalmette facility, in violation of LAC 33:V.4013.
- X. The Department contends that Respondent failed to develop written procedures for the Chalmette facility to ensure that each waste volume remains in the temporary waste storage unit for no more than 90 days, in violation of LAC 33:V.1109.E(iv)(a).

## VIII.

With respect to the Sorrento facility (Agency Interest Number 88152), the following deviations or excursions were noted in the voluntary disclosures made by the Respondent pursuant to the self-audit and the written correspondence submitted on November 8 and December 2, 2004:

- A. LDAR monitoring and repair program data were collected and compiled by the Respondent's contractor personnel for the Sorrento facility. However, two of the summary reports generated by the contractor reportedly lacked a specific listing of leaking/delay repair components as required by LAC 33:III.2121. Records tracking related maintenance activities for leaking components required by 40 CFR 60.487 and LAC 33:III.2121 were also incomplete. Each of the Respondent's failures to include all information specified in LAC 33:III.2121 and 40 CFR 60.487 by the required due dates is a violation of 40 CFR 60.487, which language has been adopted as a Louisiana Regulation in LAC 33:III.3003, LAC 33:III.2121.F, and Section 2057(A)(2) of the Act.
- B. The Respondent failed to create a written Best Practical Housekeeping Plan for housekeeping and maintenance that places emphasis on the prevention or reduction of VOC emissions from the Sorrento facility as required by LAC 33:III.2113. The Respondent reportedly utilized best management techniques to reduce VOC emissions and has reportedly prepared a written Best Practical Housekeeping Plan since the internal audit was conducted. The Respondent's failure to develop this written plan is a violation of LAC 33:III.2113.A.4 and Section 2057(A)(2) of the Act.
- C. The Respondent failed to develop written procedures to maintain the ongoing integrity of storage tanks, pressure vessels, pressure relief devices, piping systems, rotating equipment, emergency shutdowns and controls at the Sorrento facility in violation of 40 CFR 68.73 and La. R.S. 30:2057(A)(2). The facility has reportedly developed preventative maintenance practices for rotating equipment and electrical equipment, including instrumentation and controls.
- D. The Department contends that Respondent failed to maintain records of offsite consequence analysis at the Sorrento facility in

violation of 40 CFR 68.39 and La. R.S. 30:2057(A)(2). The offsite consequence analysis was completed and timely submitted for the Sorrento facility. The Department contends that supporting documentation, however, was misplaced.

- E. The Department contends that Respondent failed to develop a management system to oversee the implementation of the Risk Management Program elements at the Sorrento facility in violation of 40 CFR 68.15 and La. R.S. 30:2057(A)(2).
- F. The Respondent failed to establish and implement all elements required by the MOC procedures for the Sorrento facility in violation of 40 CFR 68.75 and La. R.S. 30:2057(A)(2). The Respondent developed and implemented an MOC program, however, some elements of the program failed to meet certain requirements related to training on the change as well as updating, if needed, the PSI, operating procedures, PHA, and PSSR, along with documentation of the time of completion of the MOC tasks.
- G. The Department contends that Respondent failed to evaluate and update the PHA for the Sorrento facility, as needed, prior to facility startup of modified sources, in violation of 40 CFR 68.75 and 68.67(a) and La. R.S. 30:2057(A)(2). The PHA for the facility operations was complete, but the Department contends that three of the recommendations were not documented as resolved.
- H. The Department contends that Respondent failed to train each employee involved in the operating process, in violation of 40 CFR 68.71 and La. R.S. 30:2057(A)(2). In particular, the Department contends that documentation at the Sorrento facility was not up to date with regard to the training and refresher training of employees on the operating procedures.
- I. The Department contends that Respondent failed to establish a Contractor Safety Program at the Sorrento facility, in violation of 40 CFR 68.87(b) and La. R.S. 30:2057(A)(2). Appropriate pre-hire safety information was received for construction contractors and for current contractors. The Respondent has created a contractor safety database which includes an approved contractor list.

- J. The Respondent failed to perform a quarterly visual examination of the storm water discharge associated with its industrial activity at the Sorrento facility as required by Permit LAR050000 Part 5.1.2. In particular, the second and fourth quarter 2003 and third and fourth quarter 2002 storm water inspections were not completed or documented by the Respondent. This is in violation of LPDES Permit LAR05N243 Section 5.1.2.1, La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.
- K. The Respondent failed to conduct inspections at least once per year as required by Permit LAR050000 Part 4.9 at the Sorrento facility. In particular, the 2003 annual comprehensive site compliance evaluation was not completed and documented by the facility. This is in violation of LPDES Permit LAR05N243 Section 4.9, La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.
- L. The Department contends that Respondent failed to implement a Universal Waste Program at the Sorrento facility covering the labeling, storage, accumulation time and disposal in violation of LAC 33:V.3823 and 3825.
- M. The Department contends that Respondent failed to develop a specific hazardous waste contingency plan for the Sorrento facility in violation of LAC 33:V.1513 and 1117.
- N. The Department contends that Respondent failed to develop written procedures for the Sorrento facility to ensure that each waste volume remains in the temporary waste storage unit for no more than 90 days, in violation of LAC 33:V.1109.E(iv)(a).
- O. The Department contends that drums containing undrained used oil filters were observed unlabeled in the hazardous waste storage area at the Sorrento facility in violation of LAC 33:V.4013.
- P. The Department alleges that the annual hazardous waste report required by LAC 33:V.1111 for the 2002 calendar year, due by March 2, 2002, was submitted to the Department on March 5, 2003, in violation of LAC 33:V.1111.

IX.

The Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties. The Respondent has reportedly corrected and/or permitted the alleged issues noted in the above-referenced audits, file reviews, and inspections and all issues cited in the above-referenced CONOPPs.

X.

Nonetheless, the Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of ONE HUNDRED NINE THOUSAND AND NO/100 DOLLARS (\$109,000.00), of which One Thousand Seven Hundred Fourteen and 10/100 Dollars (\$1,714.10) represents the Department's enforcement costs, in settlement of all claims, actual or alleged, set forth in this agreement. The total amount of money expended by the Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

XI.

The Respondent further agrees that the Department may consider the inspection report(s), file reviews, audits, the above-referenced CONOPPs, and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against the Respondent. In any such action the Respondent shall be estopped from objecting to the above-referenced documents being considered as evidence of the violations alleged herein for the sole purpose of determining the Respondent's compliance history, but Respondent may present relevant mitigating factors for the Department's consideration.

## XII.

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and the Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by any Party to enforce this agreement.

## XIII.

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

## XIV.

The Respondent has caused a public notice advertisement to be placed in the official journal or newspaper of the parish governing authority in Ascension and St. Bernard Parishes. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. The Respondent has submitted a proof-of-publication affidavit from each parish listed above to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## XV.

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the



Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XVI.

In consideration of the above, any claims for penalties for any matters alleged in the CONOPPs discussed in Paragraphs III and IV, or referenced in the Paragraphs VI-VIII above, are hereby settled in accordance with the terms of this Settlement.

XVII.

This Settlement Agreement is to be governed by Louisiana law and shall be effective upon the last date signed by any party to the Agreement. The last signatory shall promptly provide a signed copy to the other parties, by U.S. mail, after executing the Agreement.

XVIII.

The provisions of this Settlement Agreement are severable. In the event any section, paragraph, clause, provision or condition of the Settlement Agreement is declared unenforceable, all other sections, paragraphs, clauses, provisions or other conditions not affected shall remain in full force and effect.

XIX.

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

**GULF LIQUIDS NEW RIVER PROJECT LLC**

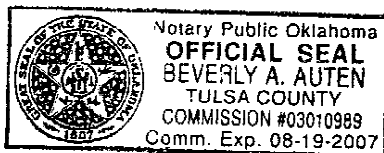
BY: *Randy M. Newcomer*  
(Signature)

Randy M. Newcomer  
(Print)

TITLE: Vice President



THUS DONE AND SIGNED in duplicate original before me this 28<sup>th</sup> day of JUNE, 2007, at Tulsa, OK.



*Beverly A. Auten*  
NOTARY PUBLIC (ID #03010989)

Beverly A. Auten  
(Print)

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

Mike D. McDaniel, Ph.D., Secretary

BY: *Harold Leggett*  
Harold Leggett, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 28<sup>th</sup> day of September, 2007, at Baton Rouge, Louisiana.

*Ted R. Bryson*  
NOTARY PUBLIC (ID # 20456)  
Ted R. Bryson  
(Print)

Approved: *Harold Leggett*  
Harold Leggett, Assistant Secretary